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Submitted electronically to CTR2018

June 7, 2019

Mr. David Edwards, Ph.D.  
California Air Resources Board  
Air Quality Planning & Science Division  
1001 "I" Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Mr. Edwards:

Subject: Comments on the 25-Day Changes to the Criteria Air Pollutant and Toxic Air Contaminants Emissions Reporting Regulation

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments to the California Air Resources Board (CARB) regarding the proposed modifications to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR regulation) posted May 13, 2019 for a 25-day public review and comment period.

LADWP submitted comments during the informal regulatory process regarding applicability thresholds in Appendix A, Table A-3 for permitted processes, emission reporting burden, and inaccurate emission factors. Summarized below are LADWP's comments and recommendations for the modified regulation, followed by more detailed discussion of each topic.

- **Abbreviated reporting** - LADWP supports the addition of abbreviated reporting for minor emission sources.
- **Emergency standby engines** – The activity level reporting threshold for combustion of diesel fuel, as specified in Appendix A, Table A-3, is extremely low and will require many emergency standby diesel-fueled engines to report activity data annually. CARB has not identified any health risk assessment or other factual basis to justify setting this low of a reporting applicability threshold for all types of equipment that use diesel fuel. Emergency standby diesel-fueled engines operate periodically for a short time for reliability testing purposes, so are insignificant sources of emissions. For this reason, LADWP believes CARB should exempt emergency standby engines from the annual reporting requirement.
- **Emission factors** – The default emission factors should be reviewed and updated based on manufacturer emission data and/or source test data collected by local air

districts and/or CARB to more accurately reflect equipment in use within California today.

- **Updates to previously reported data** – The regulation should include a process for updating previously reported data with more accurate information.
- **CARB/Local Air District implementation and enforcement** – The implementation and enforcement of the CTR reporting requirements should be primarily handled by either CARB or the local air districts but not both, to prevent overlapping enforcement. LADWP recommends delegation of enforcement responsibilities to the local air districts since they will be receiving and reviewing the data submissions for quality assurance. CARB could serve as a regulatory backstop in those cases where the local air districts have failed to implement and enforce the requirements of the CTR program.

### **Section 93403(c) Abbreviated Reporting**

LADWP supports the concept of abbreviated reporting to minimize the reporting burden on facilities. LADWP recommends further refinement of the abbreviated reporting provision as follows:

- a) For facilities subject to applicability Section 93401(a)(4) only, LADWP supports limiting the report content to permitted processes only, and specify in the regulation that reporting of emissions from unpermitted sources is not required.
- b) Certain types of permitted processes, such as gasoline dispensing stations, emergency standby engines, and natural gas-fueled boilers or heaters, should qualify for abbreviated reporting regardless of which applicability criteria brings the facility into the emissions reporting program. For example, any facility subject to the CTR regulation that has an emergency standby diesel-fueled engine on site could apply abbreviated reporting to the emergency standby engine even though other permitted processes at the facility do not qualify for abbreviated reporting.
- c) For facilities that have multiple permitted processes within the facility, reporting should be required for only those permitted processes that surpass the reporting thresholds specified in the regulation. A low-emitting source at the facility should not be subject to reporting.

In Appendix A, Table A-4, the abbreviated reporting data elements for emergency standby engines include “Total annual fuel usage by fuel type, in gallons or scf, or total annual hours of operation; horsepower of the device; and PM emission rate in grams per brake horsepower-hour.” However, LADWP notes that if annual hours of operation are reported, the fuel consumption rate also needs to be reported in order to calculate the fuel usage. In addition, the facility should have the ability to select whether to apply default emission factors or manufacturer emission factors to calculate emissions, and the option to provide source-specific emission factors from a source test if available. The horsepower, PM emission rate, fuel consumption rate, and emission factor selection should be reported the first year only, then auto-populated in the reporting tool for subsequent year reports such that the facility operator only needs to input the total annual fuel usage or annual hours of operation each year.

In addition, LADWP has gasoline dispensing stations for internal use at some of its facilities. Abbreviated reporting should also apply to all non-retail gasoline dispensing stations.

**§ 93401(a)(4) Additional Applicability – The activity level reporting threshold for diesel fuel combustion in Appendix A, Table A-3 is too low**

In its originally proposed regulation at Section 93401, CARB proposed to establish applicability criteria for determining whether a facility is subject to the new CTR reporting requirements. One of the applicability criteria was whether the facility is located within a selected AB 617 community and had at least one piece of permitted equipment. The 25-day changes seek to replace this applicability criterion with emission thresholds that would apply statewide. In particular, the new proposed regulatory text in Section 93401(a)(4) classifies an affected facility as follows:

*A facility that has one or more permits to operate issued by an air district with actual emissions or activity levels of greater than or equal to any of the thresholds specified in (A) through (C) below, within a data year.*

*(A) Four (4) or more tons per year (tpy) of any criteria air pollutant (except for carbon monoxide)*

*(B) One hundred (100) or more tpy of carbon monoxide*

*(C) Activity levels published in Appendix A, Table A-3 for a permitted emissions process at a facility classified with a matching primary or secondary Standard Industrial Classification (SIC) code or North American Industry Classification System (NAICS) code listed for the permitted emissions process. If the SIC or NAICS have a designation of "Any" in Table A-3 for a permitted process, then reporting for the process is required regardless of the SIC or NAICS designation for the facility performing the process, if the listed activity level reporting threshold is exceeded.*

The proposed emission thresholds for criteria pollutants and carbon monoxide are reasonable. However, we believe the proposed activity level reporting threshold in Appendix A, Table A-3 for combustion of diesel fuel is too low. The proposed reporting threshold is set for Tier 4 diesel engines exceeding 100 gallons of diesel fuel combusted per year or 5 hours per year of operation, and non-Tier 4 engines exceeding 30 gallons of diesel fuel combusted per year.<sup>1</sup> This low threshold will require many small facilities with a permitted emergency standby diesel-fueled engine to report activity data from the permitted equipment as required under Appendix

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<sup>1</sup> Table A-3 on page A-36 lists the process, *Combustion of crude, residual, distillate, or diesel oil, except for the agricultural and medical-related industry sectors as defined in the Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) columns.* The activity level reporting threshold for this process is listed as, "Tier 4 Diesel Engines: Over 100 gallons of fuel combusted per year, or over 5 hours per year of operation. Non-Tier 4 Engines: Over 30 gallons of fuel combusted per year."

A, Table A-4 for Section 93403(c)(2). Notably, this means that virtually every permitted diesel-fueled emergency engine in California would become subject to the CTR reporting requirements.

The proposed activity level reporting threshold is inconsistent with established standards that set minimum safety and testing levels for emergency standby engines. For example, the National Fire Protection Association (NFPA) has set a standard that calls for emergency standby generators to be tested at least 12 hours per year for reliability purposes. Similarly, the NFPA has established a standard for Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems that requires diesel firewater pump engines to run weekly for 30 minutes (26 hours per year) in order to establish a running speed and confirm that the engine has no operating problems, such as overheating.<sup>2</sup>

CARB's *Airborne Toxics Control Measure for Stationary Compression Ignition Engines* (Stationary Diesel Engine ATCM) established standards allowing up to 20 hours per year for maintenance and testing of older emergency standby engines and up to 50 hours per year for maintenance and testing of newer emergency standby engines. According to CARB's staff report for the 2010 proposed amendments to the Stationary Diesel Engine ATCM, the Diesel particulate matter (PM) emission standard and limit on maintenance and testing hours for stationary emergency standby engines were based on a conservative screening health risk assessment (HRA). "The HRA demonstrated a PM emission limit of 0.15 g/bhp-hr and 50 hours of operation would result in a potential cancer risk level of less than 10 in a million for the majority of emergency standby engine applications." In addition, the staff report includes a footnote which states "A survey conducted by ARB staff during the development of the ATCM revealed that on average, emergency standby engines operate 31 hours a year for all purposes i.e. maintenance and testing and emergency operation. (ARB, 2003)"<sup>3</sup> This clear benchmark based on CARB's own health risk assessment provides another strong reason for CARB to revisit the proposed activity level reporting threshold in Table A-3 for combustion of diesel fuel.

As a practical matter for LADWP's operations, this extremely low applicability threshold will significantly increase the number of facilities for which LADWP would have to prepare and submit annual reports. In particular, it will require LADWP to report annual activity data for 85 additional facilities with permitted emergency engines that operate only 20-30 hours per year for maintenance and reliability testing. Currently, these 85 LADWP facilities with emergency standby engines do not report their activity data every year, so the low reporting threshold in Table A-3 for combustion of diesel fuel will create additional reporting burden for LADWP. Notably, CARB has not identified any health risk assessment or even general justification for establishing such a low applicability threshold. As a result, it is unclear what information CARB hopes to gather in order to ensure the protection of human health and the environment.

For these reasons, LADWP urges CARB to reevaluate the activity level reporting threshold for combustion of diesel fuel in consideration of the testing and maintenance standards for emergency standby engines. Emergency standby engines operate periodically up to 1 hour at a time for reliability testing purposes. Increasing the activity level reporting threshold to 30 hours

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<sup>2</sup> See NFPA Standard 25, available at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=25>.

<sup>3</sup> California Air Resources Board Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines, September 2010, pages ES 3-4.

per year for emergency standby engines would avoid imposing reporting burden on owners and operators of emergency standby diesel-fueled engines that are operated in accordance with NFPA standards for the purpose of demonstrating the engines will be available during an emergency. Alternatively, we believe that it makes sense for CARB to consider exempting emergency standby engines altogether from reporting under the CTR regulation, similar to how emergency generators and fire suppression system equipment are exempted from reporting under CARB's Greenhouse Gas emission reporting regulation.<sup>4</sup> LADWP recommends that CARB exempt emergency standby engines from the CTR reporting requirements, using the definition of emergency standby engine from CARB's *Airborne Toxic Control Measure for Stationary Compression Ignition Engines* regulation.<sup>5</sup>

**§ 93401(a)(4) Additional Applicability – Activity level reporting threshold for Asbestos Removal in Appendix A, Table A-3**

LADWP is also concerned with the activity level reporting threshold listed in Table A-3 (on page A-39) for the permitted process, *Long term asbestos removal*. The CARB proposal does not appear to provide any definition or description of what constitutes "long term" as related to asbestos removal activities. We believe that CARB needs to provide additional specificity on what types of activities are covered under this process – particularly given that CARB is proposing to set the activity level reporting threshold at zero. In addition, LADWP questions whether there is even a need for a reporting requirement for most, if not all types of, asbestos removal activities given that EPA has established stringent requirements for avoiding asbestos exposure pursuant to National Emission Standards for Hazardous Air Pollutants (see 40 CFR Part 61, Subpart M) and some air districts have adopted even more stringent local requirements (see SCAQMD Rule 1403). As a result of the existing stringent regulation of asbestos removal and handling, CARB should consider not imposing a reporting requirement for asbestos removal activities. Emissions from asbestos removal activities can only be estimated based on amount of material removed, percent asbestos in the material, and emission control efficiency (HEPA

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<sup>4</sup> CARB Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (California Code of Regulations, Title 17, Sections 95100-95163) section 95101(f) Exclusions. This article does not apply to, and greenhouse gas emissions reporting is not required for:

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(2) Generating units designated as backup or emergency generators in a permit issued by an air pollution control district or air quality management district;

(3) Fire suppression systems and equipment;

<sup>5</sup> CARB Airborne Toxic Control Measure for Stationary Compression Ignition Engines (California Code of Regulations, Title 17, Sections 93115-93115.15) Definition (29) "Emergency Standby Engine" means a stationary engine that meets the criteria specified in (A), (B), and (C) and any combination of (D) or (E) or (F) below:

(A) is installed for the primary purpose of providing electrical power or mechanical work during an emergency use and is not the source of primary power at the facility; and

(B) is operated to provide electrical power or mechanical work during an emergency use; and

(C) is not operated to supply power to an electric grid or does not supply power as part of a financial arrangement with any entity, except as allowed in sections 93115.6 (a)(2), (b)(1) or (c); and

(D) is operated under limited circumstances for maintenance and testing, emissions testing, or initial start-up testing, as specified in sections 93115.6(a),(b), and (c); or

(E) is operated under limited circumstances in response to an impending outage, as specified in sections 93115.6(a),(b), and (c); or

(F) is operated under limited circumstances under a DRP as specified in section 93115.6(c).

filter). Assuming the proper procedures are used when removing asbestos containing materials, actual emissions should be near-zero.

**§ 93404 - Default emission factors are not accurate, and need to be updated**

If CARB plans to publish emission data reported under the CTR regulation for the public to view, it is important that the data be as accurate as possible. In its June 29, 2018 comment letter, LADWP emphasizes the need for CARB and the air districts to review and update the default emission factors with the best available data to improve the accuracy of reported emissions.

LADWP has concerns about data quality if the existing default emission factors are used to report emissions under the CTR reporting program. For example, the default emission factors provided by the SCAQMD for use in the annual emission reports have not been updated in many years, and are not representative of equipment in use within California today. Some of these default factors are based on the United States Environmental Protection Agency's Compilation of Air Pollutant Emission Factors (AP-42) with very conservative emissions rates that significantly overstate the source's actual emissions levels. The inaccuracy of the default emissions factors became clearly evident last year when LADWP conducted source tests to determine Toxic Air Contaminant (TAC) emission factors for turbines burning natural gas. The results of those source tests confirmed that the actual TAC emissions from LADWP's natural gas-fired turbines were 78 percent to 98 percent lower than the default emission factors. For these reasons, LADWP strongly urges CARB to establish a process whereby CARB and the air districts will review and update the default emission factors based on the many source tests that have been conducted and submitted to the air districts over the past few decades.

A small facility with a permitted diesel-fueled emergency standby generator that becomes subject to reporting under the CTR regulation will want to use default emission factors because conducting a source test is expensive. However, the existing default emission factors for internal combustion engines are very conservative. Use of the default factors would in many cases result in highly inflated emissions and make it appear that emissions from the facility are worse than they actually are. Reporting inaccurate emissions using default emission factors will raise unnecessary red flags to the surrounding communities. It also will not provide CARB and the air districts with correct information needed to evaluate emission sources within the community and take effective regulatory action to reduce human health risks. For these reasons, LADWP recommends that CARB and the air districts implement a working group to update the default emission factors. The working group would consist of CARB and air district staff, source testing companies, equipment manufacturers and industry stakeholders who have operational knowledge of various types of permitted equipment within the district. A working group would help bring together different perspectives and knowledge of data that could be used to update the default emission factors to more accurately reflect emissions from equipment in use within California.

**§ 93404 – Add method to update previously reported data to improve accuracy**

LADWP initially stated in its August 23, 2018 comment letter, there needs to be a process for improving the accuracy of a submitted emission report without incurring a violation or otherwise triggering any other noncompliance determination. For example, a facility may want to update emissions factors used in the submitted emission report with more accurate emission factors once those new emission factors become available.

LADWP recommends that CARB include a provision in the CTR regulation allowing a facility owner/operator to provide updates to its reported data after the submittal deadline without triggering any type of noncompliance assessment. For example, SCAQMD allows for submittal of an amended Annual Emission Report with the revised emissions data written in place of the old emissions data, new summary of total emissions, a new authorized signature page, and applicable fees. LADWP suggests the following:

Section 93404 (e) *Updating Emission Reports*. The designated representative may submit proposed updates to a previously submitted emission report to the local air district and/or CARB.

- (1) Beginning with 2019 emissions data reports
  - (A) Print the emission reports with relevant data to be updated
  - (B) On the emission report print-out, strikeout the initially reported data and write the new, more accurate data above the old data
  - (C) Update the new total emissions on the emission report summaries
  - (D) Submit the certified (signed) updated report to the local air district.
- (2) Beginning with 2020 data reported in 2021 and for subsequent years, a facility owner or operator may, with the approval from the local air district, update emission reports directly from the state administered electronic data system, if such a system is available at the time. If this option is chosen, the requirements in section 93404(e)(1) do not apply.
  - (A) Submit the authorized (signed) updated report and applicable fees to the local air district.

#### **§ 93410 – Dual implementation and enforcement by CARB and the local air districts**

Section 93410 states that the CTR requirements “are enforceable by both CARB and the local air districts” and that the implementation and enforcement of the CTR requirements by a local air district “does not in any way waive or limit CARB’s authority to implement and enforce” those requirements. This potential for dual enforcement is concerning to facility owners/operators subject to the CTR regulation. As expressed in its June 29, 2018 comment letter, LADWP recommends that CARB clarify in the regulation language the intent to not assume a redundant role in the implementation and enforcement of the CTR requirements. We believe it makes sense for CARB to delegate the CTR implementation and enforcement responsibilities to the local air districts that will be receiving and reviewing the reported data, and CARB could serve as a regulatory backstop in those cases where the local air districts have failed to implement and enforce the requirements of the CTR program.

This approach would avoid the potential for the facility owner or operator to become subject to dual enforcement by both CARB and the local air district on the same issue. This approach would also be consistent with CARB’s intent expressed in the Initial Statement of Reasons that “a facility will not be subject to enforcement by both CARB and an air district for the same violation(s) of the proposed regulatory requirements.”<sup>6</sup> By delegating the enforcement to the local air districts, CARB can provide support and oversight of the local air district’s enforcement programs instead of overlapping with CARB’s enforcement programs.

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<sup>6</sup> From the Initial Statement of Reasons on the proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants released on October 23<sup>rd</sup>, 2018, page 76.

Mr. David Edwards

Page 8

June 7, 2019

### **Conclusion**

As CARB continues refining this new statewide emission reporting regulation, it is important to consider and minimize the financial and administrative impacts to facility owners/operators and the local air districts that will receive and review the reported data. Regarding the revised fourth applicability criteria (all permitted equipment), the reporting thresholds for criteria pollutants are reasonable, however the activity level reporting thresholds in Table A-3 are extremely low and will bring many small facilities into the emission reporting program. LADWP requests that CARB consider exempting emergency standby engines from the CTR regulation to reduce the additional reporting burden. To improve accuracy of reported emissions, LADWP recommends creating a working group to review and update the default emission factors to reflect today's air pollution control technology. In addition, the regulation should include a method for updating reported emissions data without triggering a violation, if more accurate data becomes available at a later time. Lastly, enforcement should be handled by only one regulatory agency, to avoid a double violation.

Thank you for your consideration of these comments. If you have any questions, please contact Ms. Jodean Giese at (213) 367-0409, or Mr. James Talavera at (213) 367-2987.

Sincerely,



Jodean M. Giese  
Manager of Air Quality

JT/CP:

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